

WATCHPOINT TRANSPORTATION LLC BILL OF LADING CONTRACT TERMS

1. DEFINITIONS

"Carrier" means Watchpoint Transportation LLC

"Bill of Lading" means Carrier's non-negotiable Bill of Lading, front and reverse pages.

"Customer" includes the consignor, shipper, consignee, owner of the Goods or the shipper's, consignee's, or owner's contractors or agents, including property brokers.

"Goods" means articles of every kind and description, including their packaging, containers, or other shipping units or materials, that Customer has tendered to Carrier for transportation from the place of receipt to the place of delivery (the "Carriage"), all as stated on the front page of this Bill of Lading.

"Charges" includes Carrier's freight charges, all expenses, costs, demurrage, detention or per diem, chassis fees, and any other money obligations due from Customer, and all collection costs for freight charges and other amounts due from Customer, whether as to the Goods or otherwise, including attorneys' fees, experts' and consultants' fees, and court costs.

2. AGREEMENT TO BILL OF LADING CONTRACT TERMS

By Customer's tender of the Goods for Carriage, Customer agrees to these Bill of Lading Contract Terms, which no agent or employee of the parties may alter. This Bill of Lading is non-negotiable. Customer has prepared this Bill of Lading or Carrier or its authorized agents have done so on Customer's behalf. Customer agrees that the Carriage is subject to these Bill of Lading Contract Terms and those stated on the front page of this Bill of Lading, the applicable tariff or tariffs, which is or are available for inspection upon request, and which is or are expressly incorporated into these Bill of Lading Contract Terms by reference. The defenses and limits of liability stated in this Bill of Lading shall apply in any action against Carrier under any legal theory, whether the action is in contract, tort, bailment, indemnity, contribution, or otherwise.

3. CARRIER ACTING AS AGENT FOR NON-CARRIAGE UNDERTAKINGS; NON-INCIDENTAL SERVICE

Whenever Carrier undertakes to accomplish or arrange any act, operation, or service outside the Carriage undertaking or one not initially agreed to or stated on this Bill of Lading, Carrier shall act as Customer's agent and shall have no liability for any loss of or damage to the Goods or for any direct, indirect, or consequential loss arising out or resulting from such act, operation, or service.

4. NOTICE OF CLAIM AND TIME-BAR

(a) As a condition to Carrier's processing of a freight claim, all freight charges for the Carriage in question must be paid in full.

(b) As a further condition to Carrier's processing of a freight claim, all freight claims must be filed against Carrier within 90 days after the delivery of the Goods or, in case of non-delivery, within 90 days of the scheduled delivery date. The failure to file a claim within the above 90-day periods shall result in the claim's being time-barred and Carrier's discharge from any liability. Carrier shall not pay any time-barred claims. A timely notice of claim is a condition to the right to file a timely lawsuit against Carrier under section 4(c).

(c) Any lawsuits for freight claims shall be filed in court against Carrier no later than one year from the day on which Carrier has given written notice to the claimant that Carrier has disallowed the claim or any part or parts of the claim specified in the timely notice of claim. The failure to file a timely lawsuit within the above one-year period shall result in the claim's being time-barred and Carrier's discharge from any liability. Carrier shall not pay any time-barred claims.

5. SPECIAL SECURITY/PROTECTIVE SERVICES

Carrier's failure to arrange any agreed-to special security services or requirements, including team drivers, shall not negate Carrier's limitation of liability in section 7.

6. HIJACKING/ASSAILING THIEVES DISCLAIMER

Carrier shall have no liability arising out of or in connection with the acts of any person who unlawfully, including by use of force or threats of any kind, damages, seizes, or exercises control over the Goods, over any sub-contractor, connecting carrier, or over any means of transportation or storage of the Goods. Customer understands and agrees that it accepts and assumes the risk of loss for the above acts.

7. LIMITATION OF LIABILITY FOR LOSS OF OR DAMAGE TO GOODS; CHOICE AS TO LIMITATION AND OPPORTUNITY TO AVOID LIMITATION BY SPECIAL AGREEMENT, BY DECLARING AN INCREASED LIABILITY VALUATION AS TO THE GOODS

(a) Carrier has established and has offered Customer alternative levels of liability for the Carriage. Customer understands and agrees that it has had a reasonable opportunity to choose between two or more levels of Carrier's liability and has made its choice as to Carrier's liability limit as follows: Customer has had the choice to ship the Goods and to pay (A) Carrier's regular/lower rates for goods with limited value and a corresponding limited liability for Carrier or (B) ad valorem rates for goods not so limited in value, and a corresponding increased level of liability for Carrier, the basis for which rates is Carrier's regular/lower rates plus an increased liability charge.

(b) Unless Customer declares the nature and value of the Goods before the Carriage by stating a value on the front page of this Bill of Lading and initialing in the "SPECIAL AGREEMENT" box, then Customer knowingly and willingly elects to ship under Carrier's regular/lower rates, the consequence of which is that in no event shall Carrier or its servants or agents be or become liable for any loss of or damage to the Goods, or in connection with the Carriage, in an amount exceeding \$5.00 per pound.

8. CARRIAGE METHODS/ROUTES, SUBSTITUTION OF MODE/EQUIPMENT

Customer understands and agrees that Carrier may at any time, and without notice to Customer:

- Use any sub-contractors or connecting carrier, or means of transport or storage;
- Transfer the Goods from one conveyance to another, including transshipment or carrying on a truck or trailer other than those stated on the front page of this Bill of Lading, or any other means of transport; or
- Proceed by any route in Carrier's sole discretion, irrespective of whether such route is the nearest, most direct, customary, or advertised route. Customer agrees that anything done or not done in accordance with the above sub-paragraphs or any resulting delay shall be within the scope of the Carriage and not a deviation.

9. FORCE MAJEURE

Without prejudice to any of Carrier's rights or privileges under this Bill of Lading or under applicable law, Carrier shall not be responsible for any loss, damage, or delay that arises out of or is in any way related to, directly or indirectly, any event beyond the reasonable control of Carrier, regardless of the event's foreseeability, including events such as war, hostilities, warlike operations, terrorism, hijacking or robbery, use of force or threats to use force, embargoes, blockades, port congestion, strikes or labor disturbances, pandemics or epidemics, regulations of any governmental authority pertaining to any of the above, or any other official restrictions on commerce that arise out of or are in any way related to the above conditions and that affect Carrier's operations or Carriage in any way, in which case Carrier shall have the right to cancel any outstanding booking or the Carriage. Carrier, in its sole discretion, without prior notice to Customer and irrespective of whether the Carriage has begun, may treat the performance of the Carriage as terminated and place the Goods at Customer's disposal at any place that Carrier, in its sole discretion, deems to be safe and convenient, at which place Carrier's responsibility for such Goods shall cease. Carrier shall nevertheless be entitled to full freight and Charges on such Goods, and Customer shall pay any additional costs of transportation, transshipment, loading, unloading, delivery, storage, demurrage, detention, and all expenses related to each of the above, including Carrier's reasonable attorneys' fees.

10. REFUSED DELIVERY

Refusal of the consignee or Customer to take delivery of the Goods shall constitute an irrevocable waiver of all claims arising out of or in any way relating to the Goods or the Carriage. Customer shall be liable to Carrier for any Charges, losses, damages, expenses, and liabilities it pays or incurs, including reasonable attorneys' fees, arising out of such a refusal, including, the return of the Goods to their place of receipt.

11. FREIGHT AND CHARGES

- All freight shall be deemed fully, finally, and unconditionally earned on Carrier's receipt of the Goods.
- All freight and Charges shall be paid without any set-off, counter-claim, deduction, or stay of execution before delivery of the Goods.
- If Customer's description of the Goods in this Bill of Lading or in any documents Carrier receives from or on behalf of Customer is incorrect or misleading in any way, Customer shall pay for any damages that Carrier suffers as a result, including any reasonable attorneys' fees.
- Payment of any Charges to anyone other than Carrier or an authorized agent that Carrier identifies in writing to Customer shall not be considered payment to Carrier and shall be at Customer's sole risk.
- The class of persons within the definition of "Customer" shall be jointly and severally liable to Carrier for payment of all Charges. Customer understands and agrees that it has the duty to so notify all other such persons of their potential liability to Carrier for Charges.

12. CARRIER'S SPECIFIC AND GENERAL LIENS AS TO THE GOODS AND ANY PROPERTY OF THE CUSTOMER

(a) In addition to Carrier's specific liens on the Goods under law, including under California Civil Code § 3051.5, Carrier shall also have a lien on the Goods and any other freight or property of the Customer that is in Carrier's possession for the total amount of all Charges Customer owes to Carrier.

(b) Customer understands and agrees that it is on notice that the failure to pay Charges may result in a lien on future shipments, including the cost of storage and appropriate security for the subsequent shipment held under California Civil Code § 3051.5 or under this agreement.

(c) Carrier shall have a general and continuing lien on any property of Customer coming into Carrier's actual or constructive possession or control as to any unpaid Charges, including for monies Customer owes to Carrier as to the shipment on which the lien is claimed, a prior shipment, or both, including as to the cost of storage and appropriate security, freightage, dead freight, demurrage, detention, and for any expenses that Carrier has paid or incurred for storage, security, repacking, remarking, fumigation, or required disposal of Goods, for fines, dues, tolls, or commissions that Carrier has paid or incurred on behalf of the Goods, for any sums, including attorneys' fees and costs Carrier has paid or incurred because of any attachment or other legal proceedings brought against the Goods by governmental authorities or any person claiming an interest in the Goods. Carrier's lien shall survive discharge or delivery of the Goods.

(d) Carrier shall provide written notice to Customer of Carrier's intent to exercise its lien rights, which notice shall state the exact amount of monies due. Customer shall notify all parties having an interest in the shipment of Carrier's lien rights and the potential exercise of such rights in the absence of the payment of the monies due.

(e) Unless, within 30 days of receiving notice of lien, Customer posts cash or letter of credit at sight, or if the amount due is in dispute, an acceptable bond equal to 110 per cent of the value of the total amount due, in favor of Carrier, guaranteeing payment of all monies due, plus all accruing Charges, Carrier shall have the right to sell the Goods or other property of Customer at public or private sale or auction and Carrier shall refund Customer any net proceeds remaining after such sale.

13. DESCRIPTION OF GOODS AND NOTIFICATION

(a) Customer's description of the Goods in a sealed trailer, shipping container, or package that Customer or its agents have prepared shall not be binding on Carrier, and the description declared by Customer on any document is information Customer provides solely for its own use. Customer understands that Carrier has not and will not verify the contents, weight, or measurement of a sealed trailer, shipping container, or package, or the weight or measurement, or the value, quantity, quality, description, condition, marks, or numbers of the contents. Carrier is under no responsibility as to such description of particulars and Customer shall indemnify Carrier from and against any loss, damage, liability, and expense, including reasonable attorneys' fees Carrier has paid or incurred, arising out of or in any way connected with or caused by, in whole or in part, such description of particulars.

(b) Carrier, its agents, and servants shall not in any circumstance be under any liability for insufficient packing or inaccuracies, obliteration or absence of marks, numbers, addresses or description, or for misdelivery due to marks or countermarks or numbers, or for failure to notify the consignee of the arrival of the Goods, notwithstanding any custom of the place of delivery to the contrary.

14. HAZARDOUS GOODS

(a) Prior to tendering hazardous goods, as defined under applicable federal and state law and regulations, Customer shall, in compliance with the laws and regulations governing the transportation of such goods, have the same properly packed, marked, and labeled, and notify Carrier in writing of their proper description, nature, and the necessary precautions.

(b) Goods that are hazardous goods or are otherwise of an inflammable, explosive, or dangerous nature, as to the shipment of which Carrier has not consented with knowledge of their nature and character, may at any time before delivery be unloaded at any place and destroyed or rendered innocuous by Carrier without compensation to Customer or any other person, and Customer shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment, including reasonable attorneys' fees. If any such Goods shipped with such knowledge and consent shall become a danger to the transporting conveyance or to any cargo, then they may in like manner be loaded in any place or destroyed and rendered innocuous by Carrier without liability on the part of Carrier.

(c) Customer shall indemnify Carrier from and against any loss, damage, liability, and expense, including reasonable attorneys' fees Carrier has paid or incurred, arising out of or in any way connected with or caused by, in whole or in part, omission of full disclosure required by this clause or by applicable treaties, conventions, laws, codes, or regulations.

15. PERISHABLE GOODS

(a) Unless Carrier arrange Carriage of Goods of a perishable nature in ordinary trailers without special protection, services, or other measures unless Customer provides written instructions for the Carriage to be in a refrigerated, heated, electrically ventilated, or otherwise specially-equipped trailer or shipping container, or that the Goods are to receive special attention in any way. In case of refrigerated trailers or shipping containers packed by or on behalf of Customer, it undertakes not to tender for Carriage any Goods that require refrigeration without giving written notice to Carrier of their nature and the required temperature-setting of the thermostatic controls before Carrier's arranging of the Carriage. Customer undertakes that the Goods have been properly stowed in the trailer or shipping container and that the thermostatic controls have been adequately set before Carrier's receipt of the Goods and, if necessary, that the Goods have been pre-cooled before their stuffing into the trailer or shipping container. Customer understands and agrees that refrigerated trailers and shipping containers are not designed to freeze down Goods that have not been presented for stuffing at or below their designated carrying temperature, and Carrier shall not be responsible for the consequences of Goods tendered at a higher temperature than that required for the Carriage. If Customer fails to comply with the above requirements, then Carrier shall not be liable for any loss of or damage to the Goods.

(b) The term "apparent good order and condition" when used in this Bill of Lading or other document with reference to Goods that require temperature control does not mean that the Goods were verified by Carrier as being at the designated carrying temperature.

(c) Carrier shall in no event be held liable for damage to Goods due to condensation.

16. GOODS UNACCEPTABLE FOR CARRIAGE

(a) Unless Carrier otherwise agrees in writing, Carrier shall not accept any of the following for Carriage: accounts, bills, deeds, evidences of debt, notes, securities, currency, money, coins or stamps, jewelry, precious stones, bullion, specie, or other precious metals, furs, garments trimmed with furs, weapons, ammunition, explosives, live animals and plants, Christmas trees, batteries, used household goods and personal effects, used machinery, used automobiles, used aircraft, used boats, temperature-controlled commodities, cigarettes and other tobacco products, hazardous materials, human remains, antiques, plants, live animals, pharmaceuticals, lewd, obscene or pornographic materials, D.O.T.-restricted articles, including dangerous goods and hazardous or combustible materials, any material prohibited from transport by any law, regulation, or statute of any country in which the shipment may be carried.

(b) If Customer tenders any of the above without the prior written disclosure to Carrier and gets its written agreement to transport the same before the Carriage, then Customer shall indemnify Carrier from and against any loss, damage, liability, and expense, including reasonable attorneys' fees Carrier has paid or incurred, arising out of or in any way connected with or caused by, in whole or in part, such Goods.

17. INSPECTION OF GOODS

Carrier or any sub-contractor or connecting carrier shall be entitled, but shall be under no obligation, to open any trailer, package, carton, or other shipping unit at any time and to inspect the Goods.

18. CUSTOMER-PACKED GOODS, CUSTOMER-STUFFED TRAILERS AND CONTAINERS

(a) If Goods have not been packaged, and if a trailer or shipping container has not been stuffed by or on behalf of Carrier, then Carrier shall not be liable for the loss of or damage to the Goods, and Customer shall indemnify Carrier from and against any loss, damage, liability, and expense, including attorneys' fees Carrier has paid or incurred, if such loss, damage, liability, or expense arises out of or is in any way connected with or is caused by, in whole or in part:

- The manner in which the Goods, trailer, or shipping container was stuffed, filled, packed, or loaded; or
 - The unsuitability of the Goods for Carriage in their packaging or in a trailer or shipping container; or
 - The unsuitability or defective condition of the trailer or shipping container, provided that, if the trailer or shipping container had been supplied by or on behalf of Carrier, that unsuitability or defective condition could have been apparent upon inspection by Customer at or prior to the time when the trailer or shipping container was stuffed, filled, packed, or loaded.
- (b) Customer shall inspect trailers or shipping containers before stuffing them and Customer's use of a trailer or shipping container shall be prima facie evidence of its being suitable and without defect.

19. CARRIAGE AFFECTED BY THE CONDITION OF THE GOODS

If it appears at any time that the Goods cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measure or measures in relation to the Goods or the trailer or shipping container, then Carrier may, without notice to Customer, take any measure or measures or incur any additional expense or expenses to carry or to continue the Carriage, or to sell or dispose of the Goods, or to abandon the Carriage or to store Goods, or any combination of the above, under cover or in the open, at any place that Carrier, in its sole discretion, considers most appropriate, which abandonment, storage, sale, or disposal shall be deemed to constitute delivery and completion of the Carriage. Customer shall indemnify Carrier from and against any such additional expenses, including attorneys' fees Carrier has paid or incurred, arising out of or in any way connected with or caused by, in whole or in part, Carrier's having taken any of the above measures.

20. CUSTOMER'S RESPONSIBILITY

Customer shall comply with all regulations or requirements of customs, port and other authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses, or losses, including the full return-freight for the Goods returned, or if on-carried, the full freight from the Place of Delivery to another place of delivery, incurred or sustained by reason of any failure to so comply or by reason of any illegal, incorrect, or insufficient marking, numbering, or addressing of the Goods. Customer shall indemnify Carrier from and against any loss, damage, liability, and expense, including attorneys' fees Carrier has paid or incurred, if such loss, damage, liability, or expense arises out of or is in any way connected with or is caused by, in whole or in part, Customer's non-compliance or non-payment as to any of the above.

21. DELAY, CONSEQUENTIAL LOSS, ETC.

(a) Carrier does not undertake that the Goods will be transported from the place of receipt, or will arrive at the place of delivery, or will be shipped on board any particular truck or other conveyance at any particular date or time or to meet any particular market or in time for any particular use. The scheduled or advertised departure and arrival times are only expected times and may be advanced or delayed and Carrier shall in no event be liable for direct, special, incidental, indirect, or consequential loss or damage caused by delay.

(b) Carrier shall in no event be liable for any special, incidental, indirect, or consequential loss or damage arising from any other cause, notwithstanding Carrier's notice of the possibility of such damages at the time Carrier arranged such Carriage.

22. VARIATION OF THE CONTRACT

No person, including a service provider or an employee, servant, or agent of Carrier, has the power to waive or vary any of the Bill of Lading Contract Terms unless Carrier, in writing, has specifically authorized such a waiver or variation.

23. PARTIAL INVALIDITY

If any provision of these Bill of Lading Contract Terms shall for any reason be held to be invalid or unenforceable by any court or regulatory body, then the remainder of these Bill of Lading Contract Terms shall remain in full force and effect.

22. NO MODIFICATION OR WAIVER

No person has the power to change or waive any of these Bill of Lading Contract Terms unless the president or chief executive officer of Carrier, in writing, has expressly agreed to such a change or waiver.

25. MANDATORY LAW, VENUE, AND JURISDICTION

All claims or disputes arising out of or in any way related to this Bill of Lading or the Carriage shall be determined under the laws of the State of California, without regard to its conflict of laws rules. Without prejudice to a party's right to remove an action to federal court, the exclusive and mandatory venue for any such claims or disputes shall be the federal courts serving or the state courts in San Mateo County, California, to the exclusion of all other courts. The parties agree to irrevocably submit to the personal jurisdiction of the above courts and to waive any jurisdictional, venue, or inconvenient forum objections to those courts.